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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,084	10/02/2003	Wai Lin Siew	061255-0027	7774
9629 7590 07/31/2009 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				
EXAMINER				
PADEN, CAROLYN A				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
07/31/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/676,084

Applicant(s)

SIEW ET AL.

Examiner

Carolyn A. Paden

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 8-14, 17, 19-31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8-14, 17, 19-31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 8-14, 17, 19-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin as further evidenced by Bailey's and in view of Chen taken together.

Lin discloses combining palm oil with unsaturated oils such as soybean oil, corn and sunflower oils in proportions of 9:1 to 7:3 (page 82, column 2).. The blended oils are cooled to 20C to 3C for crystallization and then separated by filtration. Although the fatty acid content of the unsaturated oil is not mentioned in Lin, these levels are well known in the art as evidenced by Bailey's to contain the linoleic, oleic and linolenic that is set forth in claim 1. Further applicant includes these oil sources as selected oils in claim 8. The filtration step of Lin is taken to be a low-pressure filter press in claim 2. The claims appear to differ from Lin in the recitation of heating step b. Chen discloses that it is known in the art to melt palm oil before cooling it for crystallization. At column 1, first full paragraph of page 404, Chen discloses melting palm oil at 69C for 15

minutes "to destroy any preexisting nuclei and its crystallization memory. Chen also discloses that palm oil is composed of polymorphs and contains a slurry of crystals in the liquid oils at 293-303 K (67-85F or 19-29C). Given the disclosure of Chen to crystals in palm oil at ambient temperatures, it would have been obvious to one of ordinary skill disclosure to heat the oil blend of Lin to melt the fat crystals in the oil blend before commencing to crystallize the fat. This would permit the creation of stable and unified fat crystals.

It is appreciated that the ratio of fatty acids in step d is not mentioned but the ratio of saturation and unsaturation in the fatty acids would have been an obvious function of the amount of each of the oils used in the starting blend. The oil combination in Lin is used the same proportions as that of the claims. One would expect the desired product to be achieved by the process of Lin because the same starting material and steps are used in the process. The same acts in the same relation would be expected to product the same result.

It is appreciated that the crystallization time is not mentioned but it would have been within the determination of one of ordinary skill in the art to determine the most efficient crystallization time in the Lin process. It is

also appreciated that the specific crystallizer of claim 23 is not mentioned but it would have been obvious to select a crystallizer that improves the efficiency of production. Apparatus limitations do not carry weight in process claims.

Finally the use of the oils in foods would have been an obvious matter of choice with regard to the particular edible oil that was available.

Applicants' argues that Lin does not teach heating the fat before cooling it. Chen is cited to show the common sense reason of why one of ordinary skill in the fat crystallization art would be expected to heat palm oil before fractionating it.

The rejection of the claims over Theuer has been dropped.

Claims 1-3, 6-14 and 17-28 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a process and product made to contain the oils of the claims with palm olein with IV of 60 with as much as 60% corn oil or 40% soybean oil as shown in the sentence bridging pages 8-9, does not reasonably provide enablement for any and all combinations of vegetable oil and unsaturated oil. The specification does not enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims.

Claims 1-3, 6, 8-14, 17, 19-31 and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' arguments relating to the meaning of the various palm oil sources is not sufficient to overcome the rejection.

The rejection of the claims under 35 USC 112, 2nd paragraph has been withdrawn. No rejection of the claims under 35 USC 112, 1st paragraph for lack of enablement was advanced in the last office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached by dialing 571-272-

1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Carolyn Paden/

Primary Examiner 1794

Application/Control Number: 10/676,084
Art Unit: 1794

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